IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2695 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHAGWATPRASAD TRIBHUVANDAS

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2695 of 1989

MR PC MASTER for MR HB SHAH for Petitioner No. 1

MR LR PUJARI A.G.P for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 28/06/2001

ORAL JUDGEMENT

1. Heard Mr.P.C. Master for Mr.H.B. Shah, learned counsel for the petitioner and Mr.L.R. Pujari, learned A.G.P. for the respondent-State.

2. In this Special Civil Application under Article 226 of the Constitution of India, the petitioner has been praying for quashing and setting aside the adverse remarks contained in the communication dated 25.10.1988 at annexure `B' as confirmed by the negotiation dated 21.3.1989 at annexure `D', and also for direction to the respondent to treat such adverse remarks as being illegal, null and void, non existent and of no legal effect whatsoever and not to act upon the same.

3. It is submitted by the learned counsel for the petitioner that for the period from 18.11.1987 to 31.3.1988 adverse entry has been recorded in the service record of the petitioner by the respondent and by the said entry, though the petitioner has been rated as efficient officer but is said to have a tendency to yield to political pressure. This entry is without any basis. The immediate superior officer who recorded A.C.R. did not pass any adverse entry in the A.C.R. of the petitioner during the relevant period, but the Reviewing Authority has made the aforesaid adverse entry in the service record of the petitioner and that the said adverse entry has been passed without any basis.

4. It is submitted by the learned A.G.P. for the respondent that during the discussion it was brought to the notice of the Reviewing Authority on the basis of which the impugned entry came to be recorded in the service record of the petitioner that the said entry has not affected the petitioner adversely in any manner. Since the petitioner even after recording of the aforesaid entry has been promoted to the higher post, and has also retired on superannuation. That the entry has in no manner adversely affected the petitioner. That since the petitioner has already retired on superannuation, there is no question of giving any effect to the said entry as adverse to the interest of the petitioner. It is also stated by Mr.Pujari, learned A.G.P. that the impugned entry was by way of caution to the petitioner and not for giving any adverse effect and that is why the entry has not been given any effect in any manner.

5. Since the impugned entry has not affected the petitioner adversely in any manner and as he has been promoted subsequently even after the passing of the adverse entry and has also retired on attaining the age of superannuation, as stated by learned A.G.P. for the respondent, there is no question of giving any effect to the said entry as adverse to the interest of the petitioner.

6. In view of the facts as stated above no direction is required to be issued to the respondent and the writ petition is disposed of accordingly. No order as to costs. Rule discharged.

28.6.2001. (N.G. Nandi, J.)

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